

House File 692 - Introduced

HOUSE FILE 692

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 452)

(SUCCESSOR TO HF 293)

A BILL FOR

1 An Act relating to renewable fuels, including by providing
2 for tax credits, providing an appropriation, and including
3 effective date and retroactive and other applicability
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 DIVISION I

2 RETAIL DEALERS — MOTOR FUEL STANDARDS

3 Section 1. Section 214A.2, subsection 4, paragraph b, Code
4 2011, is amended by adding the following new subparagraph:

5 NEW SUBPARAGRAPH. (4) Biodiesel blended fuel classified as
6 B-6 or higher but not higher than B-20 must conform to A.S.T.M.
7 international specification D7467 or a successor A.S.T.M.
8 international specification as established by rules adopted by
9 the department.

10 DIVISION II

11 RETAIL DEALERS — LIABILITY

12 Sec. 2. NEW SECTION. 214A.20 Retail dealers — limitation
13 on liability.

14 1. A retail dealer is not liable for damages caused by the
15 use of incompatible motor fuel dispensed at the retail dealer's
16 retail motor fuel site, if all of the following applies:

17 a. The incompatible motor fuel complies with the
18 specifications for a type of motor fuel as provided in section
19 214A.2.

20 b. The incompatible motor fuel is selected by a person other
21 than the retail dealer, including an employee or agent of the
22 retail dealer.

23 c. The incompatible motor fuel is dispensed from a motor
24 fuel pump that correctly labels the type of fuel dispensed.

25 2. For purposes of this section, a motor fuel is
26 incompatible with a motor according to the manufacturer of the
27 motor.

28 DIVISION III

29 RETAIL DEALERS — ETHANOL PROMOTION TAX CREDIT

30 Sec. 3. Section 422.11N, subsection 1, paragraph a, Code
31 2011, is amended to read as follows:

32 a. "E-85 gasoline", "ethanol", "ethanol blended gasoline",
33 "gasoline", and "retail dealer", and "retail motor fuel site"
34 mean the same as defined in section 214A.1.

35 Sec. 4. Section 422.11N, subsection 3, paragraph a, Code

1 2011, is amended to read as follows:

2 a. The taxpayer is a retail dealer who sells and dispenses
3 ethanol blended gasoline through a motor fuel pump ~~in~~ located
4 at the retail dealer's retail motor fuel site during the tax
5 year in determination period or parts of the determination
6 periods for which the tax credit is claimed as provided in this
7 section.

8 Sec. 5. Section 422.11N, Code 2011, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 3A. a. When first claiming the tax credit,
11 the retail dealer shall elect to compute and claim the tax
12 credit on a company-wide basis or site-by-site basis in the
13 same manner as provided in section 452A.33.

14 (1) In making a company-wide election, the retail dealer
15 must compute and claim the tax credit based on calculations
16 as provided in this section for all retail motor fuel sites
17 where the retail dealer sells and dispenses motor fuel on a
18 retail basis. The retail dealer shall not claim the tax credit
19 based on a calculation which does not include all such retail
20 motor fuel sites. A retail dealer shall use the company-wide
21 election in order to calculate the retail dealer's biofuel
22 threshold percentage as provided in subsection 4, paragraph
23 "b".

24 (2) In making a site-by-site election, the retail dealer
25 must compute and claim the tax credit based on calculations as
26 provided in this section for each retail motor fuel site where
27 the retail dealer sells and dispenses motor fuel on a retail
28 basis. The retail dealer shall not claim the tax credit based
29 on a calculation which includes two or more retail motor fuel
30 sites. Nothing in this subparagraph requires the retail dealer
31 to compute or claim a tax credit for a particular retail motor
32 fuel site. The retail dealer shall not use the site-by-site
33 election in order to calculate the retail dealer's biofuel
34 threshold percentage as provided in subsection 4, paragraph
35 "b".

1 *b.* Once the retail dealer makes an election as provided in
2 paragraph "a", the retail dealer shall not change the election
3 without the written consent of the department.

4 Sec. 6. Section 422.11N, subsection 4, paragraph d, Code
5 2011, is amended by striking the paragraph.

6 Sec. 7. Section 422.11N, subsection 5, paragraph a,
7 subparagraph (1), Code 2011, is amended to read as follows:

8 (1) For any tax year in which the retail dealer has attained
9 a biofuel threshold percentage for the determination period,
10 the tax credit rate is ~~six and one-half~~ eight cents.

11 Sec. 8. Section 422.11N, subsection 5, paragraph a,
12 subparagraph (2), subparagraph divisions (a) and (b), Code
13 2011, are amended to read as follows:

14 (a) If the retail dealer's biofuel threshold percentage
15 disparity equals two percent or less, the tax credit rate is
16 ~~four and one-half~~ six cents.

17 (b) If the retail dealer's biofuel threshold percentage
18 disparity equals more than two percent but not more than four
19 percent, the tax credit rate is as follows:

20 (i) For calendar year 2011, two and one-half cents.

21 (ii) For calendar year 2012 and for each subsequent calendar
22 year, four cents.

23 Sec. 9. Section 422.11N, subsection 6, Code 2011, is amended
24 to read as follows:

25 6. a. A retail dealer is eligible to claim an ethanol
26 promotion tax credit as provided in this section even though
27 the retail dealer claims ~~an~~ one or all of the following related
28 tax credits:

29 (1) The E-85 gasoline promotion tax credit pursuant to
30 section 422.11O.

31 (2) The E-15 plus gasoline promotion tax credit pursuant to
32 section 422.11Y.

33 b. The retail dealer may claim the ethanol promotion tax
34 credit and one or more of the related tax credits as provided
35 in paragraph "a" for the same tax year and for the same ethanol

1 gallonage.

2 Sec. 10. Section 452A.33, subsection 1, paragraph b, Code
3 2011, is amended by striking the paragraph and inserting in
4 lieu thereof the following:

5 **b.** The report shall include information required in
6 paragraph "a" on a company-wide and site-by-site basis, as
7 required by the department.

8 (1) The information submitted on a company-wide basis shall
9 include the total motor fuel gallonage, including for each
10 classification and subclassification, sold and dispensed by the
11 retail dealer as provided in paragraph "a" for all retail motor
12 fuel sites from which the retail dealer sells and dispenses
13 motor fuel.

14 (2) The information submitted on a site-by-site basis shall
15 include the total motor fuel gallonage, including for each
16 classification and subclassification, sold and dispensed by the
17 retail dealer as provided in paragraph "a" separately for each
18 retail motor fuel site from which the retail dealer sells and
19 dispenses motor fuel.

20 Sec. 11. 2006 Iowa Acts, chapter 1142, section 49,
21 subsection 2, as amended by 2006 Iowa Acts, chapter 1175,
22 section 17, is amended to read as follows:

23 2. For a retail dealer who may claim an ethanol promotion
24 tax credit under section 422.11N or 422.33, subsection 11A, as
25 enacted in this Act and amended in subsequent Acts, in calendar
26 year 2020 and whose tax year ends prior to December 31, 2020,
27 the retail dealer may continue to claim the tax credit in the
28 retail dealer's following tax year. In that case, the tax
29 credit shall be calculated in the same manner as provided in
30 section 422.11N or 422.33, subsection 11A, as enacted in this
31 Act and amended in subsequent Acts, for the remaining period
32 beginning on the first day of the retail dealer's new tax year
33 until December 31, 2020. For that remaining period, the tax
34 credit shall be calculated in the same manner as a retail
35 dealer whose tax year began on the previous January 1 and who

1 b. The tax credit shall apply to E-85 gasoline that meets
2 the standards provided in section 214A.2.

3 Sec. 16. Section 422.11O, subsection 3, Code 2011, is
4 amended by striking the subsection and inserting in lieu
5 thereof the following:

6 3. For a retail dealer whose tax year is on a calendar year
7 basis, the retail dealer shall calculate the amount of the tax
8 credit by multiplying a designated rate of sixteen cents by the
9 retail dealer's total E-85 gasoline gallonage as provided in
10 sections 452A.31 and 452A.32.

11 Sec. 17. Section 422.11O, subsection 5, Code 2011, is
12 amended to read as follows:

13 5. a. A retail dealer is eligible to claim an E-85 gasoline
14 promotion tax credit as provided in this section even though
15 the retail dealer claims an one or all of the following related
16 tax credits:

17 (1) The ethanol promotion tax credit pursuant to section
18 422.11N for the same tax year for the same ethanol gallonage.

19 (2) The E-15 plus gasoline tax credit pursuant to section
20 422.11Y.

21 b. (1) The retail dealer may claim the E-85 gasoline
22 promotion tax credit and one or more of the related tax credits
23 as provided in paragraph "a" for the same tax year.

24 (2) The retail dealer may claim the ethanol promotion
25 tax credit as provided in paragraph "a" for the same ethanol
26 gallonage used to calculate and claim the E-85 gasoline
27 promotion tax credit.

28 Sec. 18. Section 422.11O, subsection 8, Code 2011, is
29 amended to read as follows:

30 8. This section is repealed on January 1, ~~2021~~ 2018.

31 Sec. 19. Section 422.33, subsection 11B, paragraph c, Code
32 2011, is amended to read as follows:

33 c. This subsection is repealed on January 1, ~~2021~~ 2018.

34 Sec. 20. 2006 Iowa Acts, chapter 1142, section 49,
35 subsection 3, is amended to read as follows:

1 3. For a retail dealer who may claim an E-85 gasoline
 2 promotion tax credit under section 422.110 or 422.33,
 3 subsection 11B, as enacted in this Act and amended in
 4 subsequent Acts, in calendar year ~~2020~~ 2017 and whose tax
 5 year ends prior to December 31, ~~2020~~ 2017, the retail dealer
 6 may continue to claim the tax credit in the retail dealer's
 7 following tax year. In that case, the tax credit shall be
 8 calculated in the same manner as provided in section 422.110
 9 or 422.33, subsection 11B, as enacted in this Act and amended
 10 in subsequent Acts, for the remaining period beginning on the
 11 first day of the retail dealer's new tax year until December
 12 31, ~~2020~~ 2017. For that remaining period, the tax credit shall
 13 be calculated in the same manner as a retail dealer whose tax
 14 year began on the previous January 1 and who is calculating the
 15 tax credit on December 31, ~~2020~~ 2017.

16 Sec. 21. ADMINISTRATIVE RULES. The department of revenue
 17 may adopt emergency rules under section 17A.4, subsection 3,
 18 and section 17A.5, subsection 2, paragraph "b", to implement
 19 the provisions of this division of this Act. Any rules adopted
 20 in accordance with this section shall also be published as a
 21 notice of intended action as provided in section 17A.4. The
 22 department's rules shall not take effect earlier than July 1,
 23 2011.

24 Sec. 22. EFFECTIVE DATES.

25 1. Except as provided in subsection 2, this division of this
 26 Act takes effect on July 1, 2011.

27 2. The section of this division of this Act authorizing
 28 the department of revenue to adopt rules takes effect upon
 29 enactment.

30 3. The section of this division of this Act allowing a
 31 retail dealer to compute and claim an E-85 gasoline promotion
 32 tax credit in calendar year 2011 for the period beginning
 33 January 1, 2011, and ending June 30, 2011, takes effect upon
 34 enactment.

35 Sec. 23. FORMER TAX CREDIT AVAILABILITY — CLAIMS FOR THE

1 2011 CALENDAR YEAR FOR THE PERIOD ENDING JUNE 30, 2011 —
2 RETROACTIVE APPLICABILITY.

3 1. A retail dealer who is claiming an E-85 gasoline
4 promotion tax credit for the period beginning January 1, 2011,
5 and ending June 30, 2011, shall calculate the tax credit
6 pursuant to section 422.110 or 422.33, subsection 11B, as
7 that section or subsection existed immediately prior to July
8 1, 2011. A retail dealer who is claiming an E-85 gasoline
9 promotion tax credit for the period beginning July 1, 2011, and
10 ending December 31, 2011, shall calculate the tax credit as
11 otherwise provided in this division of this Act.

12 2. This section applies retroactively to January 1, 2011.

13 Sec. 24. APPLICABILITY OF NEW TAX CREDIT.

14 1. Except as provided in subsection 2, section 422.110,
15 as amended in this division of this Act, and section 422.33,
16 subsection 11B, as amended in this division of this Act and
17 applied due to this division of this Act, apply to tax years
18 beginning on and after January 1, 2012.

19 2. Section 422.110, as amended in this division of this Act,
20 and section 422.33, subsection 11B, as amended in this division
21 of this Act, and applied due to this division of this Act,
22 apply to that part of a retail dealer's tax year or tax years
23 occurring during the portion of the calendar year beginning on
24 and after July 1, 2011, and ending on December 31, 2011. In
25 that case, the retail dealer shall calculate the E-85 gasoline
26 promotion tax in the same manner as a retail dealer calculating
27 the tax credit on January 1, 2012.

28 DIVISION V

29 RETAIL DEALERS — BIODIESEL BLENDED FUEL TAX CREDIT

30 Sec. 25. Section 422.11P, Code 2011, is amended by adding
31 the following new subsection:

32 NEW SUBSECTION. 1A. For purposes of this section, biodiesel
33 blended fuel is classified in the same manner as provided in
34 section 214A.2.

35 Sec. 26. Section 422.11P, subsection 2, Code 2011, is

1 amended to read as follows:

2 2. The taxes imposed under this division, less the credits
3 allowed under section 422.12, shall be reduced by ~~the amount~~
4 ~~of the~~ a biodiesel blended fuel tax credit for each tax year
5 that the taxpayer is eligible to claim a tax credit under this
6 subsection.

7 a. In order to be eligible, all of the following must apply:

8 (1) The taxpayer is a retail dealer who sells and dispenses
9 qualifying biodiesel blended fuel through a motor fuel pump
10 located at a the retail dealer's retail motor fuel site
11 ~~operated by the retail dealer in~~ during the tax calendar year
12 in or parts of the calendar years for which the tax credit is
13 claimed as provided in this section.

14 ~~(2) Of the total gallons of diesel fuel that the retail~~
15 ~~dealer sells and dispenses through all motor fuel pumps located~~
16 ~~at a motor fuel site operated by the retail dealer during the~~
17 ~~retail dealer's tax year, fifty percent or more is biodiesel~~
18 ~~blended fuel which meets the requirements of this section.~~

19 ~~(3)~~ (2) The retail dealer complies with requirements of the
20 department established to administer this section.

21 b. The tax credit shall apply to biodiesel blended fuel
22 ~~formulated with a minimum percentage of two percent by volume~~
23 ~~of biodiesel, if the formulation~~ classified as provided in this
24 section, if the classification meets the standards provided in
25 section 214A.2.

26 Sec. 27. Section 422.11P, subsection 3, Code 2011, is
27 amended by striking the subsection and inserting in lieu
28 thereof the following:

29 3. For a retail dealer whose tax year is on a calendar year
30 basis, the retail dealer shall calculate the amount of the tax
31 credit by multiplying a designated rate by the retail dealer's
32 total biodiesel blended fuel gallonage as provided in section
33 452A.31 which qualifies under this subsection.

34 a. In calendar year 2012, in order to qualify for the tax
35 credit, the biodiesel blended fuel must be classified as B-2

1 or higher. The designated rate for each gallon of qualifying
2 biodiesel blended fuel is three cents.

3 *b.* In calendar year 2013 and for each subsequent calendar
4 year, in order to qualify for the tax credit, the biodiesel
5 blended fuel must be classified as B-5 or higher. The
6 designated rate for each gallon of qualifying biodiesel blended
7 fuel is five cents.

8 Sec. 28. Section 422.11P, Code 2011, is amended by adding
9 the following new subsection:

10 NEW SUBSECTION. 3A. For a retail dealer whose tax year is
11 not on a calendar year basis, the retail dealer shall calculate
12 the tax credit as follows:

13 *a.* If a retail dealer has not claimed a tax credit in the
14 retail dealer's previous tax year, the retail dealer may claim
15 the tax credit in the retail dealer's current tax year for that
16 period beginning on January 1 of the retail dealer's previous
17 tax year to the last day of the retail dealer's previous tax
18 year. For that period the retail dealer shall calculate the
19 tax credit in the same manner as a retail dealer who will
20 calculate the tax credit on December 31 of that calendar year
21 as provided in subsection 3.

22 *b.* (1) For the period beginning on the first day of the
23 retail dealer's tax year until December 31, the retail dealer
24 shall calculate the tax credit in the same manner as a retail
25 dealer who calculates the tax credit on that same December 31
26 as provided in subsection 3.

27 (2) For the period beginning on January 1 to the end of the
28 retail dealer's tax year, the retail dealer shall calculate
29 the tax credit in the same manner as a retail dealer who will
30 calculate the tax credit on the following December 31 as
31 provided in subsection 3.

32 Sec. 29. Section 422.11P, subsection 6, Code 2011, is
33 amended to read as follows:

34 6. This section is repealed January 1, ~~2012~~ 2018.

35 Sec. 30. Section 422.33, subsection 11C, paragraphs c and d,

1 Code 2011, are amended to read as follows:

2 ~~c. The tax credit shall be calculated separately for each~~
3 ~~retail motor fuel site operated by the taxpayer in the same~~
4 ~~manner as provided in section 422.11P.~~

5 ~~d.~~ c. This subsection is repealed on January 1, 2012 2018.

6 Sec. 31. TAX CREDIT AVAILABILITY — CLAIMS FOR THE 2011
7 CALENDAR YEAR. Nothing in this Act affects a retail dealer's
8 claiming of a biodiesel blended fuel tax credit as provided in
9 2006 Iowa Acts, chapter 1142, section 49, subsection 5.

10 Sec. 32. TAX CREDIT AVAILABILITY. For a retail dealer who
11 may claim a biodiesel blended fuel promotion tax credit under
12 section 422.11P or 422.33, subsection 11C, as amended in this
13 Act and amended in subsequent Acts, in calendar year 2017, and
14 whose tax year ends prior to December 31, 2017, the retail
15 dealer may continue to claim the tax credit in the retail
16 dealer's following tax year. In that case, the tax credit
17 shall be calculated in the same manner as provided in section
18 422.11P or 422.33, subsection 11C, as amended in this Act and
19 amended in subsequent Acts, for the remaining period beginning
20 on the first day of the retail dealer's new tax year until
21 December 31, 2017. For that remaining period, the tax credit
22 shall be calculated in the same manner as a retail dealer whose
23 tax year began on the previous January 1 and who is calculating
24 the tax credit on December 31, 2017.

25 Sec. 33. ADMINISTRATIVE RULES. The department of revenue
26 may adopt rules under chapter 17A prior to the effectiveness
27 and applicability of section 422.11P, and section 422.33,
28 subsection 11C, as amended in this division of this Act, due to
29 this division of this Act. The department's rules shall not
30 take effect earlier than January 1, 2012.

31 Sec. 34. EFFECTIVE DATES.

32 1. Except as provided in subsection 2, this division of this
33 Act takes effect July 1, 2011.

34 2. a. The section of this division of this Act authorizing
35 the department of revenue to adopt administrative rules takes

1 effect upon enactment.

2 b. The section of this division of this Act which provides
3 for tax credit availability for the 2011 calendar year under
4 2006 Iowa Acts, chapter 1142, section 49, subsection 5, being
5 deemed of immediate importance, takes effect upon enactment.

6 c. Section 422.11P, as amended in this division of this Act,
7 and section 422.33, subsection 11C, as amended in this division
8 of this Act, take effect on January 1, 2012.

9 Sec. 35. APPLICABILITY. Section 422.11P, as amended in this
10 division of this Act, and section 422.33, subsection 11C, as
11 amended in this division of this Act and applied due to this
12 division of this Act, apply to tax years beginning on and after
13 January 1, 2012.

14 DIVISION VI

15 RETAIL DEALERS — E-15 PLUS GASOLINE TAX CREDIT

16 Sec. 36. NEW SECTION. 422.11Y E-15 plus gasoline promotion
17 tax credit.

18 1. As used in this section, unless the context otherwise
19 requires:

20 a. *"E-85 gasoline"*, *"ethanol"*, *"gasoline"*, *"retail dealer"*,
21 and *"retail motor fuel site"* mean the same as defined in section
22 214A.1.

23 b. *"Motor fuel pump"* means the same as defined in section
24 214.1.

25 c. *"Sell"* means to sell on a retail basis.

26 d. *"Tax credit"* means the E-15 plus gasoline tax credit as
27 provided in this section.

28 2. For purposes of this section, ethanol blended gasoline is
29 classified in the same manner as provided in section 214A.2.

30 3. The taxes imposed under this division, less the credits
31 allowed under section 422.12, shall be reduced by the amount
32 of the E-15 plus gasoline tax credit for each tax year that
33 the taxpayer is eligible to claim a tax credit under this
34 subsection.

35 a. In order to be eligible, all of the following must apply:

1 (1) The taxpayer is a retail dealer who sells and dispenses
2 qualifying ethanol blended gasoline through a motor fuel pump
3 located at the retail dealer's retail motor fuel site during
4 the calendar year or parts of the calendar years for which the
5 tax credit is claimed as provided in this section.

6 (2) The retail dealer complies with requirements of the
7 department established to administer this section.

8 b. The tax credit shall apply to ethanol blended gasoline
9 classified as provided in this section, if the classification
10 meets the standards provided in section 214A.2.

11 4. For a retail dealer whose tax year is on a calendar year
12 basis, the retail dealer shall calculate the amount of the tax
13 credit by multiplying a designated rate by the retail dealer's
14 total ethanol blended gasoline gallonage as provided in section
15 452A.31 which qualifies under this subsection.

16 a. In order to qualify for the tax credit, the ethanol
17 blended gasoline must be classified as E-15 or higher but not
18 classified as E-85.

19 b. The designated rate of the tax credit is as follows:

20 (1) For calendar year 2012, calendar year 2013, and calendar
21 year 2014, three cents.

22 (2) For calendar year 2015, calendar year 2016, and calendar
23 year 2017, two cents.

24 5. For a retail dealer whose tax year is not on a calendar
25 year basis, the retail dealer shall calculate the tax credit
26 as follows:

27 a. If a retail dealer has not claimed a tax credit in the
28 retail dealer's previous tax year, the retail dealer may claim
29 the tax credit in the retail dealer's current tax year for that
30 period beginning on January 1 of the retail dealer's previous
31 tax year to the last day of the retail dealer's previous tax
32 year. For that period the retail dealer shall calculate the
33 tax credit in the same manner as a retail dealer who will
34 calculate the tax credit on December 31 of that calendar year
35 as provided in subsection 4.

1 *b.* (1) For the period beginning on the first day of the
2 retail dealer's tax year until December 31, the retail dealer
3 shall calculate the tax credit in the same manner as a retail
4 dealer who calculates the tax credit on that same December 31
5 as provided in subsection 4.

6 (2) For the period beginning on January 1 to the end of the
7 retail dealer's tax year, the retail dealer shall calculate
8 the tax credit in the same manner as a retail dealer who will
9 calculate the tax credit on the following December 31 as
10 provided in subsection 4.

11 6. *a.* A retail dealer is eligible to claim an E-15 plus
12 gasoline promotion tax credit as provided in this section even
13 though the retail dealer claims one or all of the following
14 related tax credits:

15 (1) The ethanol promotion tax credit pursuant to section
16 422.11N.

17 (2) The E-85 gasoline promotion tax credit pursuant to
18 section 422.11O.

19 *b.* (1) The retail dealer may claim the E-15 plus gasoline
20 promotion tax credit and one or more of the related tax credits
21 as provided in paragraph "a" for the same tax year.

22 (2) The retail dealer may claim the ethanol promotion
23 tax credit as provided in paragraph "a" for the same ethanol
24 gallonage used to calculate and claim the E-15 plus gasoline
25 tax credit.

26 7. Any credit in excess of the retail dealer's tax liability
27 shall be refunded. In lieu of claiming a refund, the retail
28 dealer may elect to have the overpayment shown on the retail
29 dealer's final, completed return credited to the tax liability
30 for the following tax year.

31 8. An individual may claim the tax credit allowed a
32 partnership, limited liability company, S corporation, estate,
33 or trust electing to have the income taxed directly to the
34 individual. The amount claimed by the individual shall be
35 based upon the pro rata share of the individual's earnings of a

1 partnership, limited liability company, S corporation, estate,
2 or trust.

3 9. This section is repealed on January 1, 2018.

4 Sec. 37. Section 422.33, Code 2011, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 11D. The taxes imposed under this division
7 shall be reduced by an E-15 plus gasoline promotion tax credit
8 for each tax year that the taxpayer is eligible to claim the
9 tax credit under this subsection.

10 a. The taxpayer shall claim the tax credit in the same
11 manner as provided in section 422.11Y. The taxpayer may claim
12 the tax credit according to the same requirements, for the same
13 amount, and calculated in the same manner, as provided for the
14 E-15 plus gasoline promotion tax credit pursuant to section
15 422.11Y.

16 b. Any E-15 plus gasoline promotion tax credit which is in
17 excess of the taxpayer's tax liability shall be refunded or may
18 be shown on the taxpayer's final, completed return credited to
19 the tax liability for the following tax year in the same manner
20 as provided in section 422.11Y.

21 c. This subsection is repealed on January 1, 2018.

22 Sec. 38. TAX CREDIT AVAILABILITY. For a retail dealer who
23 may claim an E-15 plus gasoline promotion tax credit under
24 section 422.11Y or 422.33, subsection 11D, as enacted in this
25 Act and amended in subsequent Acts, in calendar year 2017, and
26 whose tax year ends prior to December 31, 2017, the retail
27 dealer may continue to claim the tax credit in the retail
28 dealer's following tax year. In that case, the tax credit
29 shall be calculated in the same manner as provided in section
30 422.11Y or 422.33, subsection 11D, as enacted in this Act and
31 amended in subsequent Acts, for the remaining period beginning
32 on the first day of the retail dealer's new tax year until
33 December 31, 2017. For that remaining period, the tax credit
34 shall be calculated in the same manner as a retail dealer whose
35 tax year began on the previous January 1 and who is calculating

1 the tax credit on December 31, 2017.

2 Sec. 39. ADMINISTRATIVE RULES. The department of revenue
3 may adopt rules under chapter 17A prior to the effectiveness
4 and applicability of section 422.11Y, as enacted in this
5 division of this Act, and section 422.33, subsection 11D, as
6 enacted in this division of this Act and applied due to this
7 division of this Act. The department's rules shall not take
8 effect earlier than January 1, 2012.

9 Sec. 40. EFFECTIVE DATES.

10 1. Except as provided in subsection 2, this division of this
11 Act takes effect July 1, 2011.

12 2. a. The section of this division of this Act authorizing
13 the department of revenue to adopt administrative rules takes
14 effect upon enactment.

15 b. Section 422.11Y, as enacted in this division of this Act,
16 and section 422.33, subsection 11D, as enacted in this division
17 of this Act, take effect January 1, 2012.

18 Sec. 41. APPLICABILITY. Section 422.11Y, as enacted in this
19 division of this Act, and section 422.33, subsection 11D, as
20 enacted in this division of this Act and applied due to this
21 division of this Act, apply to tax years beginning on and after
22 January 1, 2012.

23 DIVISION VII

24 RENEWABLE FUEL INFRASTRUCTURE — APPROPRIATION —

25 TRANSFER OF AUTHORITY FROM

26 DEPARTMENT OF ECONOMIC DEVELOPMENT TO DEPARTMENT OF AGRICULTURE
27 AND LAND STEWARDSHIP

28 Sec. 42. Section 15.104, subsection 8, paragraph j, Code
29 2011, is amended by striking the paragraph.

30 Sec. 43. Section 15G.201, subsection 2, Code 2011, is
31 amended to read as follows:

32 2. "*Department*" means the ~~Iowa department of economic~~
33 ~~development created in section 15.105~~ department of agriculture
34 and land stewardship.

35 Sec. 44. Section 15G.202, subsection 2, paragraph c,

1 subparagraph (4), Code 2011, is amended to read as follows:

2 (4) The Iowa ~~motor truck association~~ biodiesel board.

3 Sec. 45. Section 15G.205, subsection 4, paragraph c, Code
4 2011, is amended to read as follows:

5 c. Notwithstanding section 8.33, unencumbered and
6 unobligated moneys remaining in the infrastructure fund at the
7 close of each fiscal year shall not revert but shall remain
8 available in the infrastructure fund ~~for expenditure for the~~
9 ~~same purposes until the end of the fiscal year that begins July~~
10 ~~1, 2011, at which time the unencumbered and unobligated moneys~~
11 ~~remaining shall revert to the funds from which appropriated.~~

12 Sec. 46. Section 159.20, subsection 1, paragraph j, Code
13 2011, is amended to read as follows:

14 j. Provide for the promotion and expansion of renewable
15 fuels and coproducts, by doing all of the following:

16 ~~j.~~ (1) Assist the office of renewable fuels and coproducts
17 in administering the provisions of chapter 159A, subchapter I.

18 (2) Assist the renewable fuel infrastructure board, provide
19 for the administration of the renewable fuel infrastructure
20 programs, and provide for the management of the renewable fuel
21 infrastructure fund, as provided in chapter 159A, subchapter
22 II.

23 Sec. 47. Section 159A.2, unnumbered paragraph 1, Code 2011,
24 is amended to read as follows:

25 As used in this ~~chapter~~ subchapter, unless the context
26 otherwise requires:

27 Sec. 48. Section 321.145, subsection 2, paragraph a, Code
28 2011, is amended to read as follows:

29 a. Four Moneys shall be deposited into and credited to the
30 following funds:

31 (1) First, three million two five hundred fifty thousand
32 dollars per quarter shall be deposited into and credited to
33 the Iowa comprehensive petroleum underground storage tank
34 fund created in section 455G.3, and the moneys so deposited
35 are a continuing appropriation for expenditure under chapter

1 455G, and moneys so appropriated shall not be used for other
2 purposes.

3 (2) Second, seven hundred fifty thousand dollars per
4 quarter shall be deposited into and credited to the renewable
5 fuel infrastructure fund created in section 15G.205, and
6 the moneys so deposited are a continuing appropriation for
7 expenditure under chapter 15G, subchapter II, and moneys so
8 appropriated shall not be used for other purposes.

9 Sec. 49. TRANSITIONAL PROVISIONS — ADMINISTRATIVE
10 RULES. The rules adopted by the department of economic
11 development as codified in 261 IAC, chapters 311 through
12 314, shall continue in full force and effect until amended,
13 repealed, or supplemented by affirmative action of the
14 department of agriculture and land stewardship.

15 Sec. 50. TRANSITIONAL PROVISIONS — EMERGENCY
16 ADMINISTRATIVE RULEMAKING. The department of agriculture and
17 land stewardship may adopt emergency rules under section 17A.4,
18 subsection 3, and section 17A.5, subsection 2, paragraph "b",
19 to implement the provisions of this division of this Act, and
20 the rules shall be effective July 1, 2011, unless a later date
21 is specified in the rules. Any rules adopted in accordance
22 with this section shall also be published as a notice of
23 intended action as provided in section 17A.4.

24 Sec. 51. TRANSITIONAL PROVISIONS — ADMINISTRATIVE HEARINGS
25 OR COURT PROCEEDINGS. An administrative hearing or court
26 proceeding arising out of an enforcement action under chapter
27 15G pending on July 1, 2011, shall not be affected due to
28 this division of this Act. Any cause of action or statute
29 of limitations relating to an action taken by the department
30 of economic development shall not be affected as a result
31 of this division of this Act and such cause or statute of
32 limitation shall apply to the department of agriculture and
33 land stewardship.

34 Sec. 52. TRANSITIONAL PROVISIONS — REPLACEMENT ITEMS. A
35 replacement item, including but not limited to logos,

1 stationery, or insignia, that is made due to the effect of
2 this division of this Act shall be done as part of the normal
3 replacement cycle for such item.

4 Sec. 53. TRANSITIONAL PROVISIONS — TRANSFER OF RECORDS.

5 1. The department of economic development shall provide the
6 department of agriculture and land stewardship with records
7 necessary to administer and enforce chapter 15G, subchapter
8 II, including sections of the subchapter amended by this Act,
9 and rules adopted by the department of economic development
10 pursuant to that subchapter.

11 2. The transfer described in subsection 1, shall be
12 accomplished by June 15, 2011, unless the department of
13 economic development and the department of agriculture and land
14 stewardship agree to a different date in 2011.

15 Sec. 54. TRANSITIONAL PROVISIONS — OUTSTANDING CONTRACTS.

16 1. The department of economic development shall assign
17 and the department of agriculture and land stewardship
18 shall assume all outstanding cost-share agreements executed
19 by the department of economic development pursuant to the
20 renewable fuel infrastructure program for retail motor fuel
21 sites as provided in section 15G.203 and the renewable fuel
22 infrastructure program for biodiesel terminal facilities as
23 provided in section 15G.204.

24 2. The assignment and assumption of the cost-share
25 agreements described in subsection 1 shall be effective on July
26 1, 2011, unless the department of economic development and
27 the department of agriculture and land stewardship agree to a
28 different date in 2011.

29 Sec. 55. TRANSITIONAL PROVISIONS — RENEWABLE FUEL
30 INFRASTRUCTURE BOARD. The department of economic development
31 and the department of agriculture and land stewardship shall
32 jointly consult with the renewable fuel infrastructure board
33 as created in section 15G.202, as amended by this Act, when
34 effectuating the transitional provisions of this division of
35 this Act.

1 promotion of renewable fuels, including ethanol used in the
 2 formulation of gasoline containing various percentages of
 3 fuel grade alcohol and biodiesel used in the formulation of
 4 diesel fuel containing various percentages of oils or fats.
 5 Renewable fuel is classified according to those designations.
 6 For example, E-10 contains between 9 and 10 percent ethanol,
 7 E-15 contains at least 15 percent ethanol but is not classified
 8 as E-85. E-85 contains between 70 and 85 percent ethanol,
 9 B-2 contains 2 percent biodiesel, and B-5 contains 5 percent
 10 biodiesel (Code section 214A.2). The bill concerns retail
 11 dealers of renewable fuels (persons selling a renewable fuel
 12 on a retail basis). The bill addresses the following state
 13 agencies: the department of agriculture and land stewardship
 14 (DALs), the department of revenue (DOR), and the department of
 15 economic development (DED).

16 RETAIL DEALERS — MOTOR FUEL STANDARDS. DALs regulates
 17 standards for motor fuel based on specifications promulgated
 18 by A.S.T.M. international (Code section 214A.2). The bill
 19 provides a new standard for biodiesel blended fuel classified
 20 from B-6 to B-20 based on A.S.T.M. international specification
 21 D7467.

22 RETAIL DEALERS — LIABILITY. The bill provides that a
 23 retail dealer regulated under Code chapter 214A is not liable
 24 for damages caused to a motor by the use of an incompatible
 25 motor fuel (e.g., the use of E-85 gasoline in a conventional
 26 gasoline-powered motor). The bar against liability depends
 27 upon the satisfaction of certain conditions: (1) the motor
 28 fuel must meet legal specifications, (2) the retail dealer
 29 cannot have selected it for use in the motor, and (3) the
 30 dispensing pump must be correctly labeled.

31 RETAIL DEALERS — TAX CREDITS. The bill amends a number of
 32 existing tax credits and creates a new tax credit for retail
 33 dealers who sell and dispense renewable fuel. Generally, a tax
 34 credit is calculated on a calendar year basis regardless of
 35 whether the tax credit is claimed on a retail dealer's calendar

1 year or noncalendar year's tax return. The tax credits apply
2 to individual and corporate tax filers.

3 ETHANOL PROMOTION TAX CREDIT. The bill amends the ethanol
4 promotion tax credit (Code sections 422.11N and 422.33,
5 subsection 11A). The tax credit is calculated and claimed on
6 100 percent ethanol used in ethanol blended gasoline sold and
7 dispensed by a retail dealer as ethanol blended gasoline.

8 Under current law, the tax credit rate depends upon the
9 retail dealer's total ethanol gallonage plus the retail
10 dealer's total biodiesel gallonage (referred to as the retail
11 dealer's biofuel distribution percentage). There are two
12 tax credit schedules based on the dealer's biofuel threshold
13 percentage: the first schedule applies to retail dealers who
14 sell and distribute more than 200,000 gallons of motor fuel in
15 a calendar year (determination period) and the second schedule
16 applies to retail dealers who sell 200,000 gallons or less of
17 motor fuel in the same determination period. The tax credit is
18 eliminated on January 1, 2021.

19 The bill adjusts the tax credit rates for retail dealers who
20 either meet or do not attain the applicable biofuel threshold
21 percentage for a determination period. A disparity occurs
22 when a retail dealer's disparity equals 2 percent or less or
23 equals more than 2 percent but not more than 4 percent. In
24 calendar year 2011, the tax credit rate is increased from 6.5
25 to 8 cents for a determination period in which the retail
26 dealer attains the biofuel threshold percentage. In calendar
27 year 2011, the tax credit rate for a disparity of 2 percent
28 or less is increased from 4.5 to 6 cents. In 2011, the tax
29 credit rate for a disparity of more than 2 percent but not more
30 than 4 percent remains at 2.5 cents and in 2012, the tax credit
31 rate for such disparity is increased to 4 cents. The bill also
32 allows a retail dealer to calculate the tax credit based on a
33 site-by-site basis (each individual motor fuel site operated by
34 a retail dealer) or a company-wide basis (all motor fuel sites
35 operated by a retail dealer) assuming that the retail dealer's

1 biofuel threshold percentage is calculated on a company-wide
2 basis. The bill also amends provisions requiring retail
3 dealers to report motor fuel gallonage to DOR, by specifically
4 recognizing site-by-site or company-wide reporting. The
5 provisions are retroactively applicable to January 1, 2011.

6 E-85 GASOLINE PROMOTION TAX CREDIT. The bill amends the
7 E-85 promotion tax credit (Code sections 422.11O and 422.33,
8 subsection 11B) based on the total gallons of E-85 gasoline
9 sold and dispensed by the retail dealer. The bill eliminates
10 the current declining tax credit rate schedule allowing for 25
11 cents per gallon of E-85 gasoline in calendar year 2006 to 1
12 cent in calendar year 2020, and fixes the tax credit rate at a
13 constant 16 cents for each calendar year until the end of 2017.
14 The new rate takes effect July 1, 2011. It applies to tax years
15 beginning on and after that date.

16 RETAIL DEALERS — BIODIESEL BLENDED FUEL TAX CREDIT. The
17 bill amends the biodiesel blended fuel tax credit based on the
18 total gallons of biodiesel blended fuel sold and dispensed
19 (Code sections 422.11P and 422.33, subsection 11C). Currently,
20 the tax credit is multiplied by taking a constant (designated)
21 rate multiplied by the number of gallons of B-2 or higher sold
22 and dispensed. The tax credit is due to expire at the end of
23 calendar year 2011.

24 The bill eliminates an eligibility requirement specifying
25 that of all gallons of diesel fuel sold and dispensed by a
26 retail dealer, 50 percent or more must be biodiesel blended
27 fuel. It establishes a tax credit rate for calendar year 2012
28 based on whether the retail dealer sold or dispensed is B-2 or
29 higher. The designated rate is 3 cents. Beginning in calendar
30 year 2013, the tax credit rate is only calculated on B-5 and
31 higher. The tax credit rate for each gallon of B-5 or higher is
32 5 cents. The tax credit is extended until the end of calendar
33 year 2017.

34 E-15 PLUS GASOLINE PROMOTION TAX CREDIT. The bill creates
35 an E-15 plus gasoline promotion tax credit which is calculated

1 on the total gallons of ethanol blended gasoline, classified
2 as E-15 and higher but not E-85, sold and dispensed by a retail
3 dealer (new Code sections 422.11Y and 422.33, subsection 11D).
4 The amount of the tax credit equals a constant (designated)
5 rate multiplied by the total number of gallons of E-15 or
6 higher sold and dispensed by the retail dealer. A designated
7 rate of 3 cents applies for calendar years 2012 through 2014
8 and a designated rate of 2 cents applies for calendar years
9 2015 through 2017. The tax credit expires at the end of
10 calendar year 2017.

11 RENEWABLE FUEL INFRASTRUCTURE. The bill amends provisions
12 which establish a renewable fuel infrastructure board
13 (Code section 15G.202) which includes members representing
14 agricultural producers, petroleum refiners, petroleum
15 marketers, petroleum equipment contractors, the trucking
16 industry, insurers, and the renewable fuels industry. The
17 board is housed within DED. The board, with assistance
18 from DED, is responsible for administering two programs:
19 the renewable fuel infrastructure program for retail motor
20 fuel sites (Code section 15G.203) and the renewable fuel
21 infrastructure program for biodiesel terminal facilities (Code
22 section 15G.204). The programs are supported by a renewable
23 fuel infrastructure fund (Code section 15G.205).

24 The bill replaces a board member representing the Iowa
25 motor truck association with a member representing the Iowa
26 biodiesel board. The bill eliminates a provision that requires
27 the reversion of moneys credited to the infrastructure fund to
28 their originating sources, including the Iowa comprehensive
29 petroleum underground storage tank fund (2006 Iowa Acts,
30 ch. 1175). The bill appropriates moneys from certain fees
31 associated with motor vehicles that are currently appropriated
32 to the Iowa comprehensive petroleum underground storage tank
33 fund (Code section 455G.3), to the infrastructure fund. The
34 bill also transfers administration of the programs and the fund
35 to DALS, and includes a number of transitional provisions to

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1 accomplish the transfer.